REMARKS

The Amendments

Claim 9 is amended to incorporated the subject matter of claim 10 therein. Claim 6 is amended in the definition of R^3 and R^4. Similarly, Claim 13 is amended in the definition of R^{11} and R^{12}. Claim 13 is further amended to correct an obvious error addressing the 35 U.S.C. §112 rejection. A similar clarifying amendment is made to claims 6 and 9. These latter amendments do not narrow the scope of the claims. New dependent claim 16 is added from claim 6. This more narrowly defines R^3. These recitations are supported by the disclosure. As to claim 16, see, e.g., the formulae on page 14 of the specification, supporting the formulae in this claim.

It is submitted that the above amendments would put the application in condition for allowance or materially reduce or simplify the issues for appeal. The amendments do not raise new issues or present new matter. The amendment to claim 9 merely incorporates an, already examined, dependent claim recitation. Claims 6 and 13 are amended in a straightforward manner to clearly address the new grounds of rejection. Although an additional claim is presented, a finally rejected claim is also canceled and the new claims is merely a dependent claim fully supported by the disclosure. The amendments have been made to avoid the new grounds of rejection and, thus, they were not earlier presented. Accordingly, it is submitted that the requested amendments should be entered.

To the extent that the amendments avoid the prior art or for other reasons related to patentability, competitors are warned that the amendments are not intended to and do not limit the scope of equivalents which may be asserted on subject matter outside the literal scope of any patented claims but not anticipated or rendered obvious by the prior art or

otherwise unpatentable to applicants. Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Rejection under 35 U.S.C. §112

The rejection of claims 13-15 under 35 U.S.C. §112, second paragraph, is believed to be rendered moot by the above amendments; the claim is clarified such that x3 cannot be 0.

The Rejection under 35 U.S.C. §103 over Nozaki

The rejection of claims 6-8 and 13-15 under 35 U.S.C. §103, as being obvious over Nozaki (U.S. Patent No. 5,968,713) is respectfully traversed.

With respect to claim 6, this claim has been amended to exclude the units shown in the polymer of Nozaki's Examples 86 and 87, i.e., R^3 no longer includes hydrocarbon groups of 1 or 2 carbon atoms with a hetero atom in their definition. This amendment is supported, for example, by the exemplary x1 groups shown on page 14 of the specification. Thus, this claim and claims dependent thereon are clearly distinguished from the reference. Nozaki provides no suggestion to provide units which would meet the current definition of applicants' x1 units.

With respect to claim 13, this claim has been amended to exclude the units shown in the polymer of Nozaki's Example 44, i.e., R^{11} and R^{12} no longer include hetero atoms in their definition. Thus, this claim and claims dependent thereon are clearly distinguished from the reference.

For all of the above reasons, it is urged that Nozaki fails to render the claimed invention obvious to one of ordinary skill in the art. Thus, the rejection under 35 U.S.C.

§103 should be withdrawn.

The Rejections under 35 U.S.C. §103 over the Nishi references

The rejections of claims 9-12 under 35 U.S.C. §103, as being obvious over Nishi (U.S. Patent Nos. 6,512,067; 6,670,094; and, 6,673,517) are respectfully traversed.

The undersigned hereby declares that the subject matter of the current application and of each of the Nishi patents was commonly owned at the time the current invention was made. This is further evidenced by the common recorded assignee in each patent and the present application.

Because this application was filed after November 19, 1999, the new law of 35 U.S.C. §103(c) applies. The Nishi patents commonly owned with this application at the time the invention was made. Thus, they cannot be applied as 35 U.S.C. §102(e) prior art for purposes of a 35 U.S.C. §103 rejection.

Accordingly, these rejections should be withdrawn.

The Obviousness-type Double Patenting Rejections

The provisional obviousness-type double patenting rejection over Ser. No. 10/126,877 and the obviousness-type double patenting rejections over each of the Nishi patents (U.S. Patent Nos. 6,512,067; 6,670,094; and, 6,673,517) are believed to be rendered moot by the above amendments.

It is noted that claim 10 was not subject to these rejections and the subject matter of claim 10 is now incorporated into claim 9. In view of this amendment, there is no overlapping subject matter of the instant claims to the claims of the other application/patents. Thus, the rejections should be withdrawn.

It is submitted that the application is in condition for allowance. But the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

John A. Sopp, Reg. No. 33,103
Attorney/Agent for Applicants

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410
Date: July 12, 2004

Attorney Docket No.: KOJIM-446

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P O Box 1450, Alexandria, VA 22313-1450 on: 7-12-04

Name: R. Taylor

Signature: R. Taylor